

CASE SUMMARY

Rezoning

Meeting:	City Council, April 4, 2006
Case No:	Z-14-306
Site Address:	4615, 4617, 4619 Cedar Avenue and a portion of 929 S. College Road
Proposal:	To rezone from R-10, Residential District to O&I-1, Office and Institutional District-1
STAFF RECOMMENDATION:	DENIAL
Presented By:	Christine Laughlin, Senior Planner

GENERAL INFORMATION

Applicant:	Withers & Ravenel, Inc. 7040 Wrightsville Avenue, Suite 101 Wilmington, NC 28403
Owner:	Sandra Lindstrom 210 M Avenue Kure Beach, NC 28449 Pegwall, Inc. 1601 Dye Place Wilmington, NC 28405
Purpose:	To rezone property and a portion of the Cedar Avenue right-of-way to O&I-1, Office and Institutional District-1
Present Zoning:	R-10, Residential District
Lot Size:	0.91 of an acre (4615, 4617, 4619 Cedar Avenue and portion of 929 S. College Road) <u>0.13 of an acre (Right-of-way)</u> 1.04 acres total
Existing Land Use:	Residential
CAMA Land Classification:	Developed

Surrounding Land Use & Zoning

NORTH	Right-of-way, car dealership	RB
SOUTH	Office development, single family residential	CB, O&I-1, R-10
EAST	Single family residential	R-10
WEST	Commercial/retail, restaurant	CB

ZONING HISTORY

An application for a Special Use Permit for non-residential parking was approved for a portion of the subject property in 1993. Some of the property was included in a 1996 request to rezone to O&I (SD) for use as a credit union. An application was filed and recommended for approval by staff and the Planning Commission in February 1996 but was withdrawn by the applicant before City Council took action on the request. The request was amended slightly and resubmitted later in 1996. This second request was again recommended for approval by staff and the Planning Commission but was denied by City Council.

The applicant has submitted a request to rezone the adjacent parcels to the east to O&I-1(CD).

SITE DESCRIPTION

The subject property is made up of two parcels totaling 0.91 of an acre. A portion of the Cedar Avenue right-of-way is included in this request, bringing the total area proposed for rezoning to 1.04 acres. The southern parcel is currently developed with three single family homes. The remaining property is a portion of a parcel that is developed with a restaurant fronting the intersection of College Road and Wrightsville Avenue and contains parking for the restaurant.

Development in the area along College Road is characterized by a mix of commercial uses, including the Stevenson Honda/Acura dealership, K-Mart, several restaurants, and other retail uses. Development between Wilshire Boulevard and Cedar Avenue is mixed, with commercial development fronting on S. College Road and residential uses fronting Cedar Avenue. South of the subject property, across Cedar Avenue, are offices oriented toward S. College Road. At the eastern end of Cedar Avenue is a beauty salon in a residential structure. To the north, across Wilshire Boulevard, is the car dealership.

ANALYSIS

The applicant has requested to rezone the property to O&I-1, Office and Institutional District-1. The existing R-10 zoning district is established for moderate and low density residential development and other compatible uses. Land uses considered harmful to the health, safety, and welfare of district residents shall be prohibited from infringing upon the livability of residential areas within the district.

The proposed O&I-1 district is established for office and institutional uses, and limited commercial activities not involving the sale of merchandise. This district may serve as a transition between residential and commercial districts.

The table below gives a comparison of trip generation between maximum development under the existing R-10 zoning and the proposed O&I-1 zoning.

<u>ZONING</u>	<u>Land Use</u>	<u>Potential Intensity</u>	<u>AM Peak Hour Trips</u>	<u>PM Peak Hour Trips</u>	<u>Average Daily Trips</u>
Existing R-10	Single family	3 units	3	3	29
Proposed O&I	Commercial/retail	9,801 square feet*	15	14	108

Source: ITE Trip Generation Manual

*Assumption based on 25% of the gross square footage of the subject site

The table above indicates that the difference in estimated traffic generation from single-family in the existing R-10 district to commercial/retail development would be an increase of approximately 80 more vehicle trips per day. S. College Road has a volume of 53,831 vehicles per day (vpd) (count taken April 2005 between Wilshire Boulevard and Maple Avenue) and a capacity of 41,045 vpd resulting in a volume to capacity ratio of 1.31. Cedar Avenue has a volume of 2,103 vpd (count taken November 2005) and a capacity of 9,000 resulting in a volume to capacity ratio of 0.23. There is virtually no traffic on Wilshire Boulevard in the location of the subject property as the road improvement ends just west of the site.

College Road is already significantly over capacity in this area and is currently operating at an unacceptable level of service. Additionally, the signalized intersections at College Road and Oleander Drive and at College Road and Wrightsville Avenue are also over capacity and functioning at an "F" level of service during peak hours. Additional trips on College Road would further degrade the operation of these intersections. Furthermore, there is a documented collision problem at the unsignalized intersection of Cedar Avenue and College Road. Increasing trips through this intersection would likely increase the crash frequency and due to the existing center left turn lane on College Road, there is no effective way of limiting turning movements at Cedar Ave to improve safety. Rezoning would allow uses that would increase the number of vehicle trips at this location and would exacerbate the existing traffic problems in the area.

JUSTIFICATION

The Wilmington Future Land Use Plan 2004 – 2025:

The following Future Land Use Plan (FLUP) objectives and strategies are pertinent to this request.

Transitioning Residential Areas

Guiding Principle 1 – As the City's demographics change, needs and demands will also change, causing inevitable transition of land uses in underutilized areas. The impact of land use transition should be anticipated and planned for to ensure that it occurs in a manner beneficial to the subject area and to the overall community.

Objective 1.2 – Consider the transition to greater intensity uses on existing single family residential lots on a major or minor thoroughfare or surrounded by encroaching uses of greater intensity, which reduce the desirability of land for single family uses. These transition areas include portions of Allens Lane, Market Street, Oleander Drive, and Park Avenue as identified on the *Transition Map*.

Applicability: The FLUP identified only those areas already undergoing transition. An area was considered to be undergoing transition if City Council had recently approved at least one rezoning request that changed the character and land use pattern of that area. Twelve transition areas are identified in the FLUP. The FLUP recognized there might be several other legitimate transition areas but it was not practical to predict this change on a city-wide basis during development of the City's first comprehensive plan. Instead of trying to predict all appropriate future land use transitions, the FLUP includes a strategy to more thoroughly identify these transition areas during the Neighborhood Planning process if it is reinstated at some point in the future. The FLUP noted that until more detailed plans are completed there will likely be conflicts in areas of transition.

The FLUP identifies several general conditions to help identify probable transition areas. These conditions include: isolated single family homes on large lots, areas where commercial development or higher-intensity residential development has encroached on the fringes of older neighborhoods, areas where local roads have been widened or new major roads have been constructed and areas near UNCW that are transitioning to higher density to accommodate students. Although the residences along Cedar Avenue appear to be stable, staff recognizes that there are conditions consistent with transition areas at this location. Should the area transition, O&I-1 zoning would not be inappropriate. At this time, however, this portion of College Road is substantially congested and cannot handle additional traffic.

The North Carolina Department of Transportation has programmed funding for improvements to the intersection of College Road and Oleander Drive. Right-of-way acquisition is scheduled for 2009 and construction for 2011. With the implementation of these improvements to the intersection, it is anticipated that by 2015 the intersection of Oleander Drive and College Road will operate at acceptable levels of service at the morning and evening peaks. Until the affects of these improvements are realized and their effectiveness determined, staff does not support rezoning the subject property to O&I-1.

CONCLUSIONS

- 1) The subject site is 0.91 of an acre located on Cedar Avenue east of the intersection with College Road. The total area proposed for rezoning is 1.04 acres.
- 2) The applicant proposes to rezone the site from R-10 to O&I-1.
- 3) The property is currently developed with single family homes. Development in the surrounding area is a mix of residential and commercial uses.
- 4) Although O&I-1 is not an inappropriate land use for this site, College Road is already significantly over capacity at this location and there is insufficient road infrastructure to support this rezoning request.
- 5) Improvements to the College Road/Oleander Drive intersection are still many years away from completion.

RECOMMENDATION

Staff recognizes that the subject site is consistent with some aspects of the Future Land Use Plan policies for Transition Areas. At this time, however, College Road is substantially over capacity and substantially congested. Until sufficient road infrastructure exists to support the anticipated increase in traffic, staff does not support rezoning to O&I-1. Therefore, staff recommends **denial** of this request.

NEIGHBORHOOD CONTACT

City Notifications:	Planning Commission	City Council
Signs Posted	2/16/06	3/3/06
Adjacent Letters	2/16/06	3/23/06
Advertisement Dates	2/24/06	3/25/06, 4/1/06
General Inquiries:	None	

ACTIONS TO DATE

Planning Commission: 3/1/06 – Recommended for denial – 5-1

Information from the 3/1/06 Planning Commission meeting: No one elected to speak for or against this request. After discussion about the traffic problems in the area, the Planning Commission voted 5-1 to recommend denial of this request. The applicant has filed an appeal and the case is scheduled to be heard by City Council on April 4th.

City Council: Scheduled for public hearing 4/4/06

ATTACHMENTS

1. Location and zoning map (Dated 2/9/06)
2. Aerial Map (Dated 2/21/06)
3. Rezoning application (Received 1/24/06)
4. Planning Commission recommendation (Dated 3/1/06)

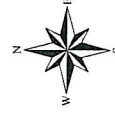
Rezoning Map

Z-14-306

4617 Cedar Ave

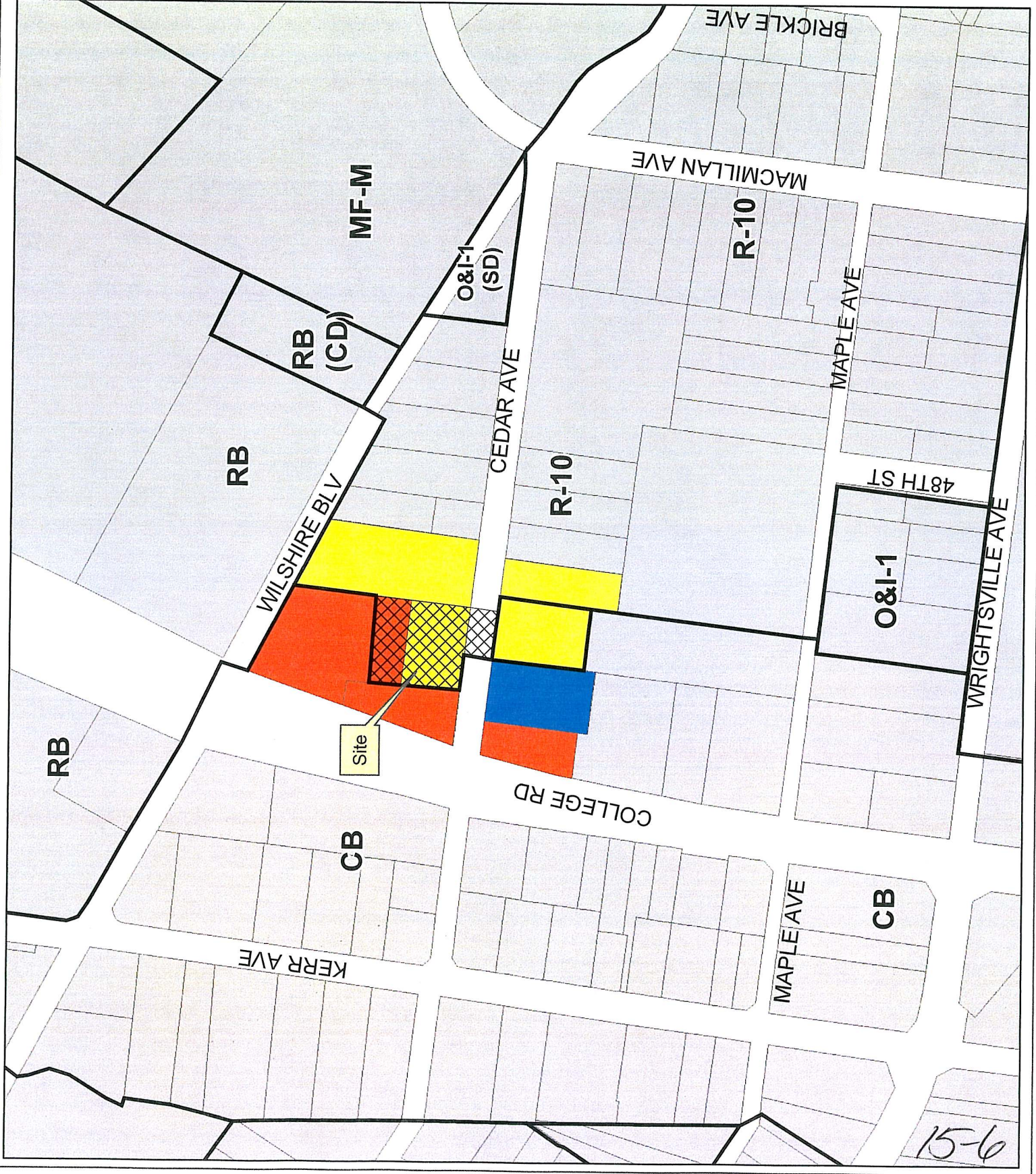


- Site Location
- 100 Year Flood Plain
- Vacant
- Utility/Transportation
- Office & Institutional
- Agriculture
- Parks/Cemetery
- Single Family
- Multi-Family
- Mobile Home
- Commercial
- Industrial



Date: 2/9/06

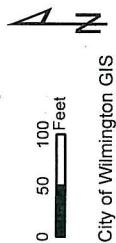
City of Wilmington GIS



15-6



Aerial Map



City of Wilmington GIS
Map Date 2-21-06

REZONING

PETITION FOR CHANGE OF ZONING OF PROPERTY

City of Wilmington, NC
Planning Division

P. O. Box 1810, 305 Chestnut St, Wilmington, NC 28402
Telephone: (910) 254-0900 FAX: (910) 341-3264

(Please read application thoroughly before completing)

IF APPLYING FOR A SPECIAL USE DISTRICT REZONING, PLEASE COMPLETE AND SUBMIT THE APPLICATION FOR A SPECIAL USE PERMIT WITH THIS REZONING APPLICATION.

Section A. APPLICANT INFORMATION

The petitioner requests that the City of Wilmington Zoning Map be amended as indicated below:

NAME OF APPLICANT/PETITIONER: Withers & Ravenel, Inc.

MAILING ADDRESS OF APPLICANT: 7040 Wrightsville Ave., #101, Wilmington, NC 28403

PHONE NUMBER/E-MAIL OF APPLICANT: 910-256-9277

PROPERTY OWNER INFORMATION (If different from the applicant):

Name(s) Sandra Lindstrom

Pegwall, Inc.

Address: 210 M Avenue

1601 Dye Place

Kure Beach, NC 28449

Wilmington, NC 28403

Telephone: --

FAX: --

E-Mail Address: --

PROPERTY INFORMATION: The following information is required to provide the necessary information to process the rezoning request:

ADDRESS OF REQUESTED SITE: 4615, 4617, & 4619 Cedar Ave. & p/o 929 S. College Road

NEW HANOVER CO. PROPERTY IDENTIFICATION # (PIN): 3137(19)-71-1995 & 3137(19)-72-2114

CURRENT ZONING DISTRICT(S): R-10 PROPOSED ZONING DISTRICT(S): O & I

TOTAL SITE ACRES/SQUARE FEET: 39,512 s.f. / 0.91 ac. (Rezoning Area - 45,512 s.f. / 1.04 ac.)

When the Planning Commission and City Council review petitions to amend the rezoning map, the intended use of the property cannot be considered. Therefore, it is important that the applicant provide information to explain how the rezoning request satisfies the following questions. Please use attachments if necessary:

1. **What changed or changing condition(s) justifies the passage of the amendment?** (Discuss how circumstances have so changed since the property was last zoned).

The intersection of Wilshire Blvd. & S. College Road has become a major node for commercial development.

Rec'd 2.9.06 Planning Division

Z.14.306

15-8

2. **Explain how the map amendment would be consistent with the City's Future Land Use Plan and adopted special area plans (i.e. corridor plans, neighborhood plans, Vision 2020 Plan, etc).**

The Future Land Use Plan identifies the subject parcels in the Tier Two Redevelopment area. The College Road Corridor Study promotes keeping expanding commercial uses near the established commercial nodes.

3. **Explain briefly the expected effect on the neighborhood if the proposed zoning map amendment is approved.**

The subject parcels are adjacent to other Regional Business and Commercial Business districts to the west and north. The uses that will be permitted if the rezoning is completed will act as a transition from the more high-intensity uses that existing along the College Road corridor.

4. **Other circumstances which tend to justify the amendment in the public interest.**

RECEIVED

JAN 24 2006

PLANNING DIVISION

Section B. SUBMITTAL INFORMATION AND PROCEDURE

- (1) Supplementary Information is **REQUIRED** as part of the application. See Section C below for required information.
- (2) The petition **MUST** be reviewed by the Planning Division for completeness **PRIOR** to the acceptance of any application or petition. Please **do not simply leave your application** materials without speaking to a Planner or Project Manager. If you do, your application may not be processed and your request might not be considered at the next Planning Commission meeting.
- (3) A fee in accordance with the approved fee schedule, payable to the City of Wilmington must accompany the application.
- (4) The Planning Commission will consider the application, if properly completed, at their next regular meeting. The petitioner or his/her agent should appear at the meeting. Meetings are held at 6:00 P. M. in the Council Chambers, City Hall, 3rd and Princess Streets, Wilmington, North Carolina on the first Wednesday of each month. Petitioners will be informed of any change in date, time or location of meetings. **Petitions and the required supplementary information must be received** in the Planning Division, 305 Chestnut Street, Wilmington, NC 28401, **thirty (30) working days before the Planning Commission meeting** to allow time for processing and advertisement as required the North Carolina General Statutes.

15-9

Section C. SUPPLEMENTAL INFORMATION REQUIRED WITH THE APPLICATION

PLEASE INCLUDE ALL OF THE FOLLOWING (CHECK OFF). Please check the list below carefully before you submit:

- ☒ Completed application form;
- ☒ Agent form if the applicant is not the property owner;
- ☒ Legal description of property requested for rezoning, by metes and bounds;
- ☒ Application fee (checks payable to the City of Wilmington);
- ☒ List of the names of owners, their addresses and the tax parcel numbers of the properties immediately adjacent to the subject property, including those separated by a street right-of-way;
- ☒ Two (2) sets of business size stamped envelopes with the adjacent property owners listed above addresses on them.
- ☒ Copy of the New Hanover Tax map which delineates the property requested for rezoning.

RECEIVED

JAN 24 2006

PLANNING DIVISION

OWNER'S SIGNATURE*: In filing this application for a zoning map amendment, I/we as the property owner(s), hereby certify that all of the information presented in this application is accurate to the best of my knowledge, information and belief. I hereby designate Withers & Ravenel, Inc. / Cindee Wolf to serve as my agent regarding this application, to receive and respond to administrative comments, to resubmit plans on my behalf and to represent me in any public meeting regarding this application.

Signature/Date: Sandra A. Lindstrom 9-23-05

DATE RECD:

PLANNER:

CASE FILE #:

FEE PAID \$:

15-10

Section C. SUPPLEMENTAL INFORMATION REQUIRED WITH THE APPLICATION

PLEASE INCLUDE ALL OF THE FOLLOWING (CHECK OFF). Please check the list below carefully before you submit:

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JAN 24 2006
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Signature/Date: _____

Cindee Wolf 10/21/05

DATE RECD:

PLANNER:

CASE FILE #:

FEE PAID \$:

15-11

2. **Rezoning - Property containing approx. 1.04 acre (Tax Parcel #3137(19)-71-1995 & 3137(19)-72-2114) located at 4615, 4617 and 4619 Cedar Ave., part of 929 South College Road and part of the Cedar Avenue right-of-way from R-10, Residential District to O&I-1, Office & Institutional-1 District. Christine Laughlin, Sr. Planner. (Z-14-306)**

Ms. Laughlin reviewed the Case Summary. The entire Case Summary is on file in the City's Planning Division and is made a part of this record.

Conclusions:

- 1) The subject site is 0.91 of an acre located on Cedar Avenue east of the intersection with College Road. The total area proposed for rezoning is 1.04 acres.
- 2) The applicant proposes to rezone the site from R-10 to O&I-1.
- 3) The property is currently developed with single family homes. Development in the surrounding area is a mix of residential and commercial uses.
- 4) Although O&I-1 is not an inappropriate land use for this site, College Road is already significantly over capacity at this location and there is insufficient road infrastructure to support this rezoning request.
- 5) Improvements to the College Road/Oleander Drive intersection are still many years away from completion.

Staff recognized that the subject site is consistent with some aspects of the Future Land Use Plan policies for Transition Areas. At this time, however, College Road is substantially over capacity and substantially congested. Until sufficient road infrastructure exists to support the anticipated increase in traffic, staff did not support rezoning to O&I-1. Therefore, staff recommended denial of this request.

Ms. Cindee Wolf, representing the owners, explained that this item and the next agenda item are closely linked. This request is more a housekeeping situation because of the next item. This property is appropriate for a transitional type O&I development, it's proximity to the FLUP recommendations and things envisioned around these particular intersections. Traffic is consistently the big topic of conversation. A traffic impact analysis is not required, but they have one underway in conjunction with the next agenda item. They met with the adjacent neighbors and there is no opposition that she knew of. Half of the rezoning is actually the Perkins' parking lot, so nothing will change there. The remainder of the property is quite small. Although staff uses maximum building coverage for their estimation of possible building size, design-wise, that is never possible. Therefore, the information that suggests there would be almost 10,000 sq. ft. of office building is not possible in a design scenario. She asked that the Commission keep that in mind. It meets all the criteria, traffic is something that needs to be fixed and some of these developments are what it takes to provide sidewalks, traffic improvements if the traffic impact analysis warrants it and those types of things.

No one else asked to speak for or against this request and the public hearing was closed.

Mr. Devita asked if staff's primary objection is because of the traffic situation and if College Road could handle additional traffic, would this be approved by staff. Mr. Clark said that is fairly accurate. It is not a problem with the land use in that area. It is just that that area of College Road from Wilshire to Lake is in the top two most congested areas in the City. Unfortunately, this site adds to that traffic. The primary issue is that there is no

capacity in that area for additional traffic and it would further degrade the function of the signals and roadway as a whole.

Mr. Stein asked how many trips there would be in peak hours and noted that there is another exit on MacMillan Drive. Ms. Loughlin explained that on this property the only access is to Cedar. If rezoned to O&I, the a.m. peak hour trips would be 15, p.m. peak hour trips would be 14 and the average daily trips would be 108. Mr. Stein asked if this is to be considered with the next agenda item or is it to be considered by itself. Ms. Wolf explained that the next agenda item would be very minimally impacted. At this point, the plan for the next item could provide the 20' bufferyard that would be required if this property stayed residential. It would be a little difficult providing the 20' buffer to the section that is the Perkins' parking lot, but she may be able to petition to the Board of Adjustment. Therefore, the answer would be no, if this rezoning were denied, it would not affect the next agenda item.

Mr. Stein asked if this is suggesting not putting anything else on College Road because of the traffic issue. Mr. Clark explained that there are traffic problems on almost all the major arterials at this point. He noted that a recent case on Giles Avenue addressed the traffic problem by closing the access to Oleander. That type of thing helps. The area between Wilshire and Lake is probably the most congested area in the entire City and it is probably the most challenging place to put any more traffic. He appreciated the Commission's struggle, because the land use makes sense and the area is in transition. There are areas where there is compromise with over-capacity, but this area is well over capacity and the delay caused by the signals being so tightly packed with that much volume is a major problem.

Mr. Saulnier commented that a number of residents appeared during the Stevenson Honda case and he was surprised those people weren't here questioning more commercial intrusion into what is generally a fairly stable single family neighborhood.

Mr. Henagan agreed that putting any additional traffic on an already Category F street is tantamount to a criminal act in his opinion and this exacerbates the traffic problem. Winter Park is an old stable neighborhood. It appeared that the neighbors who came before the Commission on the Stevenson Honda case are the same property owners in the next agenda item. He questioned whether that action caused them to sell out and leave.

Mr. Henagan moved that this application be denied on the grounds that it increases the safety risk in this area in accordance with the recommendations of staff. It was seconded by Mr. Saulnier and carried 5-1 with Mr. Devita voting no.

Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 04/04/2006

**Ordinance Amending the Official Zoning Maps
of the City Adopted March 27, 1984
(Z-14-306)**

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to change or modify zone boundaries within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code.

THEREFORE, BE IT ORDAINED:

SECTION 1: The Official Zoning Maps of the City of Wilmington are hereby amended by removing the hereinafter described tract of land from the present R-10, Residential District Classification and putting it in the O&I-1, Office & Institutional-1 District Classification, said tract being more particularly described as follows:

BEING a tract of land bound on the south by Cedar Avenue, a 60' public right-of-way, and being more particularly described as follows:

BEGINNING at a point in the north boundary of Cedar Avenue, said point being south 79 degrees 46 minutes 35 seconds east 118.62 feet along the right-of-way from its intersection with the eastern boundary of South College Road (NC Hwy. 132), a 200' public right-of-way; and running thence from the point of Beginning north 10 degrees 13 minutes 25 seconds east 197.56 feet to a point; thence south 79 degrees 46 minutes 35 seconds east 200.00 feet to a point; thence south 10 degrees 13 minutes 25 seconds west, crossing the right-of-way of Cedar Avenue at 197.56 feet, a total of 257.56 feet to a point in the southern boundary of Cedar Avenue; thence with that right-of-way north 79 degrees 46 minutes 35 seconds west 100.00 feet to a point; thence crossing back over Cedar Avenue north 10 degrees 13 minutes 25 seconds east 60.00 feet to a point in the northern boundary; thence with that right-of-way north 79 degrees 46 minutes 35 seconds west 100.00 feet to the point and place of Beginning, containing 45,512 square feet, or 1.04 acres, more or less.

SECTION 2: The City Clerk and the Planning Manager are hereby authorized and directed under the supervision of the City Manager to change the Zoning Maps on file in the office of the City Clerk and the Planning Division, so as to make them comply with this ordinance.

SECTION 3: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 18-52 of the Land Development Code.

SECTION 4: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 5: If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 6: This ordinance shall be effective immediately upon its adoption.

Spence H. Broadhurst, Mayor

Adopted at a _____ meeting
on _____, 2006.

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney